

JAMES W. ALCANTARA - State Bar No.: 152747
 Alcantara & Associates, APC
 402 West Broadway, Suite 1170
 San Diego, California 92101
 Telephone: (619) 233-5900
 Facsimile: (619) 233-5999
 Email: jima@alcantaraassociates.com

Attorneys for Plaintiff Gregory A. Strasburg,
 Individually and as Trustee of the Gregory A. Strasburg Revocable Trust dated 4/8/2003

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

GREGORY A. STRASBURG, Individually
 and as Trustee of the GREGORY A.
 STRASBURG REVOCABLE TRUST dated
 4/8/2003

Plaintiff,

v.

M/Y JUST A NOTION, Official Number
 1089525, her engines, tackle, furniture and
 appurtenances, *in rem*; PETER BLAIR, *in*
personam; JIM SINGLETON, *in personam*;
 and THE YACHT CLUB, LLC., a Nevada
 Corporation

Defendants.

CASE NO.: 08CV0021 JLS (BLM)

IN ADMIRALTY

PLAINTIFF'S OPPOSITION TO
 DEFENDANTS' MOTION TO
 DISMISS THE SECOND, THIRD,
 FOURTH AND FIFTH CAUSES OF
 ACTION FOR FAILURE TO STATE A
 CLAIM UPON WHICH RELIEF CAN
 BE GRANTED (FRCP 12(b)(6), OR, IN
 THE ALTERNATIVE, MOTION FOR
 A MORE DEFINITE STATEMENT

Date: March 28, 2008

Time: 10:30 a.m.

Judge: Hon. Janis L. Sammartino

Dept.: Courtroom 6

COMES NOW Plaintiff GREGORY A. STRASBURG, individually and as Trustee of the
 GREGORY A. STRASBURG REVOCABLE TRUST dated 4/8/03 (hereinafter referred to as
 "Plaintiff") by and through his attorney of record, James W. Alcantara, Esq. of Alcantara &
 Associates, APC., and hereby submits his Opposition to Defendants' Motion to Dismiss.

MEMORANDUM OF POINTS AND AUTHORITIES

A dismissal based upon rule 12(b)(6) can be based upon either the lack of a cognizable
 legal theory or the absence of sufficient facts alleged under a cognizable theory. (See Balistreri v.
Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1988)). Under rule 12(b)(6), a complaint should

1 not be dismissed for failure to state a claim unless it appears beyond doubt that plaintiff could
 2 prove no set of facts in support of his or her claim for relief. (See Levine v. Diamantheset, Inc.,
 3 950 F.2d 1478, 1482 (9th Cir. 1991)). The general rule in applying this standard is that the court
 4 must treat all of plaintiff's factual allegations as true. (See Experimental Eng'g, Inc. v. United
 5 Technologies Corp., 614 F.2d 1244, 1245 (9th Cir. 1980)). In addition, when a motion is brought
 6 before the court under Fed. R. Civ. P. 12(b)(6), the court assumes that all general allegations
 7 "embrace whatever specific facts might be necessary to support them." (Peloza v. Capistrano
 8 Unified School District, 37 F.3d 517, 521 (9th Cir. 1994)).

9 In the present case, Plaintiff alleges Defendant Blair (on behalf of himself and all other
 10 defendants) made specific representations to Plaintiff Greg Strasburg with the purpose of inducing
 11 Plaintiff to transfer ownership of Plaintiff's Vessel to Defendant Yacht Club, LLC.¹ Plaintiff
 12 entered into a written contractual "Operating Agreement" with Defendants as a direct result of the
 13 false representations. The Complaint clearly details the fraudulent conduct of Defendants.
 14 Specifically, the Complaint alleges Defendant Blair made numerous false statements (set forth with
 15 particularity) to Plaintiff Strasburg in order to have him enter into the Operating Agreement.

16 The authority cited by Defendants supports denial of their motion. *Committee on*
 17 *Children's Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 218, provides that a
 18 plaintiff need only "set out a representative selection of the alleged misrepresentations sufficient to
 19 permit the trial court ascertain whether the statements were material and otherwise actionable."
 20 Defendants' own motion cites to Plaintiff's Complaint wherein a representative selection of
 21 specific false statements are made. *See, Motion to Dismiss* p.3, ll. 12-24.

22 The purpose of this lawsuit is to put and end to a scam perpetrated by Defendants against
 23 Plaintiff. The Complaint sets forth sufficient particularities to allow this Court to ascertain
 24 whether the conduct of Defendants was material and otherwise actionable. Thus, Defendants'
 25 motion should be denied.

26 Plaintiff will demonstrate Defendants violated their obligations under the contractual
 27

28 ¹ Each of the specific statements set forth in the Complaint were made by Defendant Blair. At this point it is believed those statements were made of behalf of all Defendants.

1 Operating Agreement. Further, Plaintiff also will demonstrate fraud in that Defendants had no
2 intention of complying with their obligations under the contractual Operating Agreement. The
3 conduct of Defendants, after entering into the contractual Operating Agreement, clearly proves
4 these allegations. Discovery is necessary to ultimately reveal all of the fraudulent conduct and
5 those specific persons and/or entities involved in such conduct. At this stage of the pleadings,
6 however, Plaintiff has alleged more than sufficient details to allow Defendants to prepare their
7 defenses as this case goes forward.

8 Plaintiff contends the Complaint is sufficient in that all of the causes of action therein are as
9 detailed and complete as possible at this stage of the case; however, in the alternative, should this
10 Court believe that the allegations of any particular cause of action in the Complaint are
11 insufficient, Plaintiff respectfully requests leave to amend the Complaint accordingly.

12
13 RESPECTFULLY SUBMITTED this 14th day of March 2008.

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15 ALCANTARA & ASSOCIATES, APC

16
17 s/ James W. Alcantara
18 JAMES W. ALCANTARA, ESQ.
19 Attorney for Plaintiff Gregory A. Strasburg,
20 Trustee of the Gregory A. Strasburg Revocable
21 Trust dated 4/8/2003
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